IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2430 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BANCO ALUMINIUM LTD - Petitioner(s)

Versus

WORKMEN REPRESENTED BY VADODARA KAMDAR UNION - Respondent(s)

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Appearance :

MR VARUN PATEL for MR KM PATEL for Petitioner No(s).: 1.

MR RD RAVAL for Respondent No(s).: 1.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 12/08/2005

ORAL JUDGMENT

1.0 The petitioner has prayed to quash and set aside the award dated 05.11.1999 passed by the Industrial Tribunal,

Vadodara in Reference (IT) No. 110 of 1986, whereby the petitioner was directed to grant special increments to the workmen w.e.f. 01.01.1987.

2.0 The brief facts of the case are that there was a Settlement between the petitioner and the respondent Union which governed the conditions of service of the workmen. It is the case of the petitioner that as per the terms of the said Settlement, during the period of its operation, the workmen will not raise any dispute which will directly or indirectly involve financial burden.

2.1 It is the case of the petitioner that in spite of the said Settlement, the respondent Union by letter dated 06.08.1985 raised a demand that 12 workmen represented by it should also be granted special increments on the norms on which other workmen of the Company were granted the said benefits. The demand so raised by the respondent Union culminated into a Reference before the Industrial Tribunal, Vadodara. The Industrial Tribunal vide impugned award allowed the said reference as aforesaid. Hence, this petition.

3.0 Mr. Varun Patel learned advocate for the petitioner

has submitted that there were several Settlements between the petitioner Company and the respondent Union in the past also and that all the said Settlements contained an express condition that during the period of operation of the Settlement, the workmen will not raise any dispute which will directly or indirectly involve financial burden. He has contended that the Settlement in question dated 23.03.1999 was binding on the parties till 28.02.2002 and that it also contained the aforesaid stipulation, and therefore, the respondent Union could not have raised such a demand.

3.1 Mr. Patel has relied upon a decision in the case of ***Barauni Refinery Pragatisheel Shramik Parishad v. Indian Oil Corporation Ltd and Ors reported in A.I.R. 1990 S.C. pg. 1801***, wherein it has been held that a settlement arrived at with a recognized majority Union will be binding on all workmen of the establishment even those who belong to the minority Union which had objected to the same. He has, therefore, submitted that the Tribunal has committed serious error in entertaining the demand of the respondent Union for special increments.

4.0 Mr. R D Raval learned advocate for the respondent

Union has submitted that the workmen were deprived of the special increments though they were entitled for the same. He has submitted that since the Settlement in question was not produced before the Labour Court, this Court should not consider the same in this petition. He has, therefore, submitted that the Tribunal was completely justified in passing the impugned award.

5.0 I have heard learned counsel for the parties and perused the documents placed on record. Having gone through the impugned award, it is not in dispute that the Settlement in question existed between the petitioner Company and the respondent Union. Once it is not in dispute that the said Settlement existed between the parties, prima facie, it has to be held that the said Settlement shall be binding on the respondent Union. Therefore, the parties shall be governed by the terms of the said Settlement.

5.1 In above view of the matter, the respondent Union shall not be immune from the express stipulation that during the period of operation of the said Settlement, the workmen will not raise any dispute which will directly or indirectly involve financial burden inasmuch

as they were a party to the said Settlement. The said stipulation shall be binding on the respondent Union. Hence, I am of the opinion that the Tribunal has committed serious error in entertaining the demand raised by the respondent Union, and therefore, the petition deserves to be allowed.

6.0 In the result, this petition is allowed. The impugned award dated 05.11.1999 passed by the Industrial Tribunal, Vadodara in Reference (IT) No. 110 of 1986, is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

(K. S. JHAVERI, J.)

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